

Before the
Federal Communications Commission
Washington, D.C. 20554

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MM Docket No. 87-268

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In the Matter of)

Advanced Television Systems)
and Their Impact upon the)
Existing Television Broadcast)
Service)

To: Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Comments of Skinner Broadcasting, Inc.

These comments are being filed by J. Rodger Skinner, Jr., sole owner of Skinner Broadcasting, Inc., licensee of Low Power Television station W27AQ, Fort Lauderdale, Florida in response to the Sixth Further Notice Of Proposed Rulemaking, MM Docket No. 87-268. The purpose of these comments is to demand that the FCC not usurp Channel 27 (W27AQ) and other LPTV and TV-Translator stations in the manner planned in their proposed rulemaking. I contend that to usurp the channels in this manner is unfair, illegal and unconstitutional. Some alternative plans are discussed herein that give fairer treatment to LPTV and translator stations while still allowing for the development of digital television.

Having participated in the FCC Rulemaking that created the Low Power Television service, I filed an application in December of 1980 for my present facility, W27AQ, Fort Lauderdale, Florida. Due to the onslaught of over 17,000 LPTV applications, it took the FCC until 1988 to issue my construction permit. Although this long delay caused many problems including financial problems, I endured. I had to invest my entire life savings and all the money I could borrow on my credit cards, risking

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personal bankruptcy, to build the station. Banks and other traditional sources of financing were not available to me as a LPTV owner, with the albatross of "secondary service" hanging over me, threatening to bump me off my channel should a full-power station move its antenna site creating a short-space situation. Since 1988 I have lived with this "secondary service" worry but have endured since no full-power stations have moved closer to me causing short-spaced problems. I gave this "secondary service" status great study before deciding to invest my life savings into Channel 27. I came to the conclusion that any station that might affect me was already on a very tall tower that provided ample coverage of their area and thus was unlikely to move antenna sites. This presumption has proved correct over the last seven years that Channel 27 has been on the air. The record nationwide also bears this out also since few LPTV stations have been bumped.

Current rules for displaced stations have worked well to find another channel for a displaced station, outside of a filing window, thus shielding the new channel from competing applicants. It was this type of "secondary service", as defined above, that I agreed to accept when I filed the application for W27AQ back in 1980. I firmly contend that the definition of "secondary service" cannot be changed and made to apply to my station, as is being attempted in this DTV proceeding. At that time, digital television (HDTV / DTV / ATV) or whatever other name you wish to call it, did not exist and was not even in the planning stages. This new service, and indeed it is a new service in every sense of the word, saw its creation start shortly after the Japanese developed their High Definition Television (HDTV) system a few years back. Not wanting to be left at the starting gate, American bureaucrats and business leaders clamored to build a better mousetrap too and thus began the biggest boondoggle in American broadcast history. Never before in any broadcast endeavor has the cart been positioned so far in front of the horse. Nobody has taken the time to see if the public really has a demand for digital television and if they will buy all these new TV sets that will be required. Indeed, even the staunchest supporters of DTV admit that if they are wrong, this could be a massive

mistake! A massive mistake that will literally put a thousand or more Low Power Television stations off the air, resulting in the loss of tens of thousands of jobs, loss of local service to millions of viewers and loss of network viewership for those stations that use LPTV translator stations to fill in gaps in their coverage area. Is this progress? I think not. During the rush to develop DTV, FCC officials tried to take the easy way out when it came to consideration of existing LPTV and translator stations. By making them “secondary” to this new service, but being careful to really not call it a *new service* for legal reasons, they took the position that they don’t exist. Indeed, I was told exactly that by one FCC official when I questioned how they could just usurp my channel on which I operate W27AQ.

I provide the above personal illustration for two reasons. First to show that a LPTV station represents an investment of life savings by a real person, affecting their family and the families of their employees. Secondly to show that the “secondary service” hung around our necks at the creation of the LPTV service was, although cumbersome, workable as it applied then, since relatively few full-power TV stations ever change their antenna sites once built, thus giving some semblance of order to the LPTV industry.

I challenge the basic contention that LPTV is secondary to DTV, for the reasons stated above. Although this could be fought out in the courts for the next several years, it is not my intention to proceed in that manner unless forced to do so. I would rather see the FCC work with the LPTV broadcasters to find a solution for each and every station that might be displaced by this proceeding. If the FCC can take years and spend countless sums of money developing the “second channel” and then giving it to full-power broadcasters for free, it can at least develop workable solutions for LPTV stations threatened by displacement.

With many years of discriminatory practices against the LPTV industry - withholding cable carriage, strapped with unreportable callsigns (for ratings services), protection of only the Grade-A contour (while full-power TVs are protected out to their

Grade-B contour), and on and on and on! A picture of continued discrimination against Low Power Television stations becomes clear. Indeed I can say that the only victory (and only a partial victory at that) won by the LPTV industry since its inception sixteen years ago was the four letter callsign decision, allowing LPTV stations to use four letter callsigns BUT with the suffix of "LP" attached. A hard fought battle for cable carriage ended in carriage for a handful of stations in markets below 160 (very small markets indeed) and then only when meeting several other almost impossible criteria. This regulatory discrimination against LPTV must cease! We need regulators at the FCC that do not bend to every wish of the National Association of Broadcasters (NAB), who have fought against everything the LPTV industry has tried to achieve for itself since its inception. This shamless and despicable anti-competitive behavior can no longer be tolerated or it may be time for the Justice Department to investigate such matters. There should be a spirit of cooperation between full-power broadcasters and the LPTV industry, especially if we are to preserve the tradition of free over-the-air television in America, in view of the changing times.

There are several things the FCC can do to prevent displacement of as many LPTV and translator stations as possible.

1. Drop the UHF taboos on adjacent channels 2-5 for displaced LPTV stations seeking a new channel.
2. Allow cross-polarization of antennas to protect other stations for displaced stations.
3. Relax the limits on the +7, -14 and -15th adjacent channel restrictions for displaced stations.
4. Relax the limits required to protect a new DTV channel for displaced stations.
5. Allow power increases of sufficient power to cover the existing coverage area of a displaced LPTV to co-locate with new DTV facilities to make a channel

usable, even if such transmitter power exceeds the current limits for LPTV.

If after applying the above solutions, there is still no channel available for the displaced LPTV station, then extreme measures must be considered. These include:

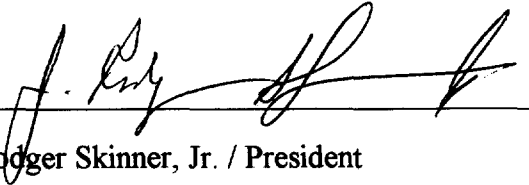
1. Requiring the first DTV channel to sign-on in the affected stations market to offer one channel of its multiple digital channels to be owned and operated by the displaced LPTV.

2. Monetary remuneration to the LPTV station from the full-power TV station that broadcasts on the displaced LPTV channel. This should take the form of a fair market value buyout based on a multiple of 3x average annual gross sales of the LPTV station over its lifetime. This should be a cash payment, with any terms to be granted by the LPTV station if desired. Payment would be required at the time the DTV station signs onto the LPTV channel that is being vacated for it.

3. In lieu of the above cash one-time payment, the displaced LPTV or translator station should have the option of receiving the cash payment OR requesting that the FCC assign to it a FM commercial broadcast channel in the 88-108mhz band. This would be a Class-A (6kw) facility and a waiver would be granted to operate on a second or third adjacent channel (as now precluded) if no channel were available in the displaced LPTV coverage area otherwise. This use of the second or third adjacent channel has been shown by the comments of numerous consulting engineering firms to cause almost no interference and then only in a very small area around the transmitter site of the new station, if at all. These comments were filed in the "grandfathered short-spaced FM proceeding", seeking to provide relief for short-spaced FM stations wishing to relocate their antenna sites. Thus all LPTV license and CP holders would be treated fairly under this plan and the plans for digital television could progress. This is a win-win situation, which is sorely needed in this proceeding.

November 21, 1996

Respectfully submitted by:



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